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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
NGUYEN, TU X	

ART UNIT	PAPER NUMBER
2618	

DATE MAILED: 11/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/407,839	YLI-JUUTI ET AL.	
	Examiner	Art Unit	
	Tu X. Nguyen	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 July 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *45,48-61 and 64-66* is/are pending in the application.

4a) Of the above claim(s) *1-44,46,47,62 and 63* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *45,48-61 and 64-66* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7/10/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

Applicant's arguments filed 7/10/06 have been fully considered but they are not persuasive.

Regarding independent claims 45, 53, 61, 64 and 66, Applicants argue "The office action rejected claim 45 under 35 U.S.C. § 102(e) based on U.S. Patent 6,317,784 (Mackintosh et al., hereinafter "Mackintosh"). Applicants respectfully traverse, as Mackintosh fails to teach or suggest all features of claim 45. In particular, part (a) of claim 45 recites receiving a telephone message that includes a portion of a musical piece, that is initiated at the location of a first radio receiver with which a person is listening to a radio station playing the musical piece in a radio broadcast, and that is initiated after the portion of the musical piece is played in the radio broadcast. The office action asserts at page 2 that Mackintosh col. 2 lines 59-61 disclose a telephone message containing at least a portion of a musical piece which has been received by a receiver. However, the cited portion of Mackintosh deals with "supplemental materials" that are provided to a user in a coordinated fashion with delivery of broadcast materials. Although the supplemental materials can include "audio clips," neither this nor any other part of Mackintosh teaches or suggests receiving a telephone message that includes a portion of a musical piece, that is initiated at the location of a first radio receiver with which a person is listening to a radio station playing the musical piece in a radio broadcast, and that is initiated after the portion of the musical piece is played in the radio broadcast. Accordingly, and for at least this reason, claim 45 is allowable". The Examiner respectfully disagrees, Makintosh et al. disclose the user receives the broadcast material and program

data in a single message; however, the broadcast material is played while the program data is used to access supplemental information and stored in a local storage and to purchase at a later time (see col.20 lines 44-52) which reads on limitation "after portion of the musical piece is played in the radio broadcast", the broadcast material and the program data are sent from different servers (see col.21 lines 14-24).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 45, 49-54, 56-61 and 64-66, are rejected under 35 U.S.C. 102(e) as being anticipated by Mackintosh et al. (US Patent 6,317,784).

Regarding claims 45, 53, 61 and 64, Mackintosh et al. disclose a method of prodding an identification of a musical piece to a person listening with a first receiver to a radio station which is playing the musical piece in a radio broadcast, said method comprising:

(a) receiving a telephone message at a first location (col.24 line 65 through col.25 line 4), wherein,

the telephone message includes a portion of the musical piece and designates a location other than the first location to which identification of the musical piece is to be sent (see col.10 lines 30-41), and

the telephone message is initiated at the location of the first radio receiver and after the portion of the musical piece is played in the radio broadcast (see col.20 lines 44-52);

(b) interrogating a data base storing data for identifying musical pieces, said interrogating including comparing the received portion of the musical piece with musical pieces stored in the data base (see col.5 lines 51-59); and

(b1) comparing the received portion of the musical piece with musical pieces stored in the data base (see col.5 lines 55-59, col.10 lines 30-40);

(b2) identifying the musical piece heard by the per based on the comparison (see col.10 lines 30-40); and

sending to the designated location a message including the identification of the musical piece (see col.10 lines 30-40).

Regarding claim 49 and 56, Mackintosh et al. disclose everything as claim 45 above, more specifically Mackintosh et al. disclose tuning a radio receiver to the identified radio station, receiving the radio broadcast (see col.12 lines 46-47, Mackintosh teaching a radio receiver in a broadcast system and inherently including plurality of radio receivers, and plurality receivers corresponds to second radio receiver).

Regarding claim 50, Mackintosh et al. disclose sending the message to designated telephone (see col.15 lines 1-4).

Regarding claims 51, 58, Mackintosh et al. disclose sending the message to an designated electronic mail address (see col.15 lines 1-4).

Regarding claims 52, 59, Mackintosh et al. disclose sending an order for the musical piece to an order shipping center (see col.14 lines 4-15).

Regarding claim 54, Mackintosh et al. disclose said music identification unit is configured to compare the portion of the musical pieces with data stored in the base (see col.20 lines 54-64).

Regarding claim 57, Mackintosh et al. disclose transmitting means comprises a second telephone (see col.1 lines 47-48 and col.15 lines 1-4).

Regarding claim 60, Mackintosh et al. disclose everything as claim 1 above. More specifically, Mackintosh et al. disclose receiving a second message (see col.21 lines 14-24).

Regarding claim 65, Mackintosh et al. disclose the receiver stores the broadcast piece of information and the first message includes at least a portion of the broadcast piece of information stored with the receiver (see col.20 lines 44-52).

Regarding claim 66, Mackintosh et al. disclose a method of providing an identification of a musical piece to a person listening with a radio receiver to a radio station which is playing the musical piece, said method comprising:

(a) receiving a telephone message that includes a portion of the musical piece and that is initiated at a location of the radio receiver and after the portion of the musical piece is played by the radio station (col.24 line 65 through col.25 line 4);

(b) in response to (a), interrogating a data base storing data for identifying musical pieces, said database and said radio receiver being at different locations (see col.16 lines 49-64), said interrogating including;

(b1) comparing the received portion of the musical piece with musical pieces stored in the data base, and (b2) identifying the musical piece heard by the person based on the

comparison of (b 1); and (c) sending a message including the identification of the musical piece obtained in (b2) (see col.5 lines 55-59, col.10 lines 30-40).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 48 and 55, are rejected under 35 U.S.C. 103(a) as being unpatentable over Mackintosh et al. in view of Chen (US Patent 5,991,737).

Regarding claims 48 and 55, Mackintosh et al. disclose receiving a second telephone message at the first location (see col.21 lines 14-24). However Mackintosh et al. fail to disclose receiving the time that the radio station played the musical piece.

Chen discloses receiving the time that the radio station played the musical piece (see col.5 lines 41-42). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Mackintosh with the above teaching of Chen in order to provide retrieving the associated content based on a given date and time of the broadcast provider.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed Tu Nguyen whose telephone number is 571-272-7883.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 27, 2006